

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LYNN ANDREWS, et. al.,

PLAINTIFFS,

vs.

**SCHELL & KAMPETER, INC.,
et. al.,**

DEFENDANT.

CIVIL ACTION No. _____

AFFIDAVIT OF MARK SCHELL

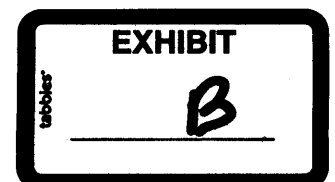
STATE OF MISSOURI
COUNTY OF OSAGE

This day, personally appeared before me, the undersigned, **Mark Schell**,
who being by me first duly sworn, deposes and says as follows:

1. My name is Mark Schell. I am the Assistant General Manager of Schell & Kampeter, Inc., a named Defendant in the above-styled case. Schell & Kampeter, Inc. d/b/a Diamond Pet Foods ("Diamond Pet") is a Missouri company with its principal place of business located in Meta, Missouri.

2. Diamond Pet Foods, Inc. is a named Defendant in the above-styled case.

3. Diamond Pet Foods, Inc. is a trademark/trade name for Schell & Kampeter, Inc. d/b/a Diamond Pet Foods and is not a separate corporation.



4. Diamond Pet manufactures pet food. As the company has disclosed on its web site, product bagged in the Gaston, S.C., plant is suspected of containing aflatoxins. Said products were distributed in several states east of the Mississippi river, including Alabama. Other states serviced by the Gaston, S.C., facility include Connecticut, Delaware, Florida, Georgia, Kentucky (eastern), Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, West Virginia, Vermont, and Virginia.

5. Given the distribution of product in those states, it is almost certain that Alabama does not constitute more than one-third of the total number of all potentially affected customers. It is certain, based upon the chain of distribution of the product in question, that two-thirds of all potentially affected customers do not reside in the State of Alabama.

6. On December 20, 2005, S&K issued a media statement stating that some of its products contained aflatoxin, a naturally occurring toxic chemical by-product. Out of an abundance of caution and concern for its customers, S&K voluntarily recalled any and all potentially affected products. Specifically, the following products were recalled: Diamond Premium Adult Dog Food, Diamond Hi-Energy Dog Food (Sporting Dog), Diamond Maintenance Dog Food, Diamond Professional for Adult Dogs, Diamond Performance Dog Food, Diamond Puppy Food, Diamond Low Fat Dog Food, Diamond Maintenance Cat Food, Diamond Professional Cat Food, Country Value Puppy, Country Value Adult Dog Food, Country Value High Energy Dog Food, Country Value Adult Cat Food, Professional Chicken & Rice Adult Dog Food, Professional Puppy Food, Professional Large-Breed Puppy Food, Professional Reduced Fat Cat Food, and Professional Adult Cat Food.

7. After December 20, 2005, S&K set up a web site as a way to register potential claims from those who may have been affected by the recalled products. The number of notices that S&K has received for potential claims in Alabama alone has risen substantially in a matter of a few weeks. As of Jan. 20, it had

received 36 Alabama notices. As of Jan. 26, it had received 70 Alabama notices. As of Feb. 3, it had received 82 Alabama notices on the web site.

8. Diamond Pet sold numerous bags of potentially contaminated pet food in Alabama. Diamond Pet sold more than 15,000 bags of food in Alabama in December 2005 alone. Diamond Pet's products are sold via 244 Alabama vendors/retail locations.

I understand that this affidavit will be filed in Court and used in support of a Notice of Removal in the above case.

Mark Schell
MARK SCHELL

SWORN TO AND SUBSCRIBED before me this 8th day of February, 2006.



Dianne Herigon
NOTARY PUBLIC

MY COMMISSION EXPIRES:

April 27, 2009